

1 November, December, 1988 -- did you talk with Mr. Crutchfield
2 to find out when he put the booster and pre-amplifier on his
3 antenna system?

4 A No.

5 Q He did not bring that to your attention?

6 A No.

7 Q Do you know whether Mr. Crutchfield's booster and
8 pre-amplifier were connected to all of his television sets or
9 just one?

10 A I do not know. I do not know.

11 Q All right, did you ask him?

12 A No.

13 JUDGE STIRMER: Mr. Stewart, Mr. Crutchfield mentioned
14 to you that he was going to sue you and the station, correct?

15 WITNESS: Yes.

16 JUDGE STIRMER: And the reason he was going to sue you
17 and the station was because your station was depriving him of
18 his ability to receive television signals that he previously
19 received?

20 WITNESS: Yes.

21 MR. SHOOK: Now, Mr. Stewart, I'm going to place before
22 you copies of our exhibits so that you have them up here.
23 Now, Mr. Stewart, I would like to direct your attention to
24 Mass Media Exhibit No. 25. Why don't you take a few moments
25 to familiarize yourself with that?

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1 (Pause.)

2 JUDGE STIRMER: Have you had a chance to view that
3 document, Mr. Stewart?

4 WITNESS: Yes.

5 JUDGE STIRMER: All right, do you have a question?

6 MR. SHOOK: Yes, Your Honor.

7 BY MR. SHOOK:

8 Q Now, you recall receiving this document, do you not?

9 A Yes.

10 Q And when you received it, did you read it?

11 A No.

12 Q And is there any particular reason why you didn't read
13 it?

14 A I was not in the position to read it.

15 Q All right, and why were you not in a position to read
16 it?

17 A Because of Mr. Jim Baggett.

18 Q Well, sir, look at the dates, please. This is 'long
19 after Mr. Baggett has left the station. Do you see that?

20 A Yes, down here. Yes.

21 Q Okay. This document came to you -- came to the station
22 at the end of 1990, or, you know, it's reflected October 30,
23 1990 was when it was released.

24 A Yes.

25 Q Do you see that?

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- 1 A (No audible response.)
- 2 Q Now, you recall receiving it.
- 3 A Yes.
- 4 Q All right, do you -- and do you -- you say you do not
5 recall reading it?
- 6 A No.
- 7 Q Or you didn't read it?
- 8 A No, I did not read it.
- 9 Q All right, and my question is why didn't you not read
10 it? Or why didn't -- why didn't you read it?
- 11 A Mrs. Stewart was taking care of these -- of this.
- 12 Q All right, and that was, that was the sole reason why
13 you didn't read it?
- 14 A Yes.
- 15 Q Did Mrs. Stewart bring this to your attention?
- 16 A Yes.
- 17 Q Did you talk about it with her?
- 18 A Yes.
- 19 Q What understanding, if any, did you have as to what
20 this order meant?
- 21 A That we -- it was our obligation to take care of the FM
22 blanketing.
- 23 Q All right, and how were you supposed to take care of
24 the FM blanketing?
- 25 A Through filters.

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1 Q All right, that was the understanding that you had?

2 A Yes.

3 Q And what were you supposed to do with these filters?

4 A Install them up on the sets.

5 Q All right, and which sets were you to install them on?

6 A Wherever it was needed.

7 Q All right, were there any sets that were not to be
8 included?

9 A Mobile sets, in my opinion, was not.

10 Q All right, and what did you understand to be a mobile
11 set?

12 A Something that you could carry around.

13 Q All right, would it make any difference in terms of how
14 big it was?

15 A If it had, if it had a handle on it, it was mobile.

16 JUDGE STIRMER: You mean to say if you had a 19-inch
17 television set that happened to have a handle on it, that
18 would be a mobile set in your judgement?

19 WITNESS: If it was not attached to a permanent
20 antenna.

21 JUDGE STIRMER: Where did you get that definition?

22 WITNESS: I guess, it was just my opinion.

23 JUDGE STIRMER: That was your opinion at that time.

24 You didn't seek any professional advice as to whether or not
25 your opinion was valid, did you?

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1 WITNESS: We tried to, sir.

2 JUDGE STIRMER: Did you call your counsel, Mr. Dunne,
3 and ask him what a portable or a mobile set was considered?

4 WITNESS: No, sir.

5 JUDGE STIRMER: Did you call your consulting engineer,
6 Mr. Fisher, and ask him what would be considered a mobile --

7 WITNESS: No, sir.

8 JUDGE STIRMER: -- set?

9 WITNESS: No, sir.

10 JUDGE STIRMER: Well, who did you consult, if anybody?

11 WITNESS: The book that came from the FM blanketing
12 interference here.

13 JUDGE STIRMER: Did that define what a mobile receiver
14 was?

15 WITNESS: And, and the dictionary.

16 JUDGE STIRMER: Well, let me see if I understand you.
17 If I had a big console that I happened to be able to carry
18 around, would that make it a mobile set?

19 WITNESS: No, sir.

20 JUDGE STIRMER: All right.

21 BY MR. SHOOK:

22 Q All right, Mr. Stewart, by chance are you referring to
23 one of the attachments that came to the October 21, 1988
24 letter? It -- you're not going to see it in the FCC order;
25 you have to look at the letter.

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1 A I would look in here where --

2 MR. DUNNE: You just look --

3 WITNESS: Okay. Yes.

4 BY MR. SHOOK:

5 Q All right, the answer to the question was "yes"?

6 A Yes.

7 Q And what exactly are you looking at now so that the
8 record will be clear?

9 A We're looking at page 2. It says "Area Receiver
10 Devices." It has one, two, three, four, five, on the indica-
11 tion about -- "the blanketing rules are concerned with inter-
12 ference to area receiving devices, radios and TV's. The
13 following are the specialized exemptions of the FM blanketing
14 rules." And I took it, number five, "mobile and portable
15 receivers."

16 Q All right. So this was from the FCC letter to the
17 station, and that's what you based your understanding on?

18 A Yes, sir.

19 Q Now, with respect to the October 1990 order, which is
20 Mass Media Exhibit No. 25, what understanding if, if any did
21 you have with respect to the station's obligation to restore
22 radio reception to complainants?

23 A None. No.

24 Q All right, your understanding was that your obligation
25 to restore service was limited to television?

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1 A Yes.

2 Q And how did you come to that understanding?

3 A I just took it for granted.

4 Q Did you consult with counsel about that?

5 A No.

6 Q Did you consult with your consulting engineer about
7 that?

8 A No.

9 Q Now, as a consequence of this -- of Mass Media
10 Exhibit 25, do you recall that a questionnaire was developed
11 to be sent to the complainants that appeared in Attachment A
12 of that order?

13 A Yes.

14 Q Do you recall what role you had in formulating the
15 questionnaire?

16 A No.

17 Q All right.

18 MR. SHOOK: Now, I'm placing before the witness a
19 document that has on the top KOKS P.O. Box 967, et cetera. It
20 is not exactly Mass Media Exhibit No. 31 because this was one
21 that was sent to the Hillises as opposed to the one that was
22 sent to Doris Smith.

23 BY MR. SHOOK:

24 Q Now, Mr. Stewart, when I refer to a questionnaire that
25 was developed and sent to individuals, you do recognize this

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1 document as the questionnaire that was sent out?

2 A I have saw it, yes.

3 Q Now, what role, if any, did you have in developing this
4 questionnaire?

5 A None.

6 Q Did you have any discussions with individuals who
7 prepared this questionnaire?

8 A Yes.

9 Q And which individuals were they?

10 A The secretary, Mrs. Stewart.

11 Q You mean your wife.

12 A Mrs. Stewart, yes.

13 Q All right, and what did you discuss with her?

14 A It was shown to me and I said, "Well, it looks ade-
15 quate. It looks like it would be sufficient."

16 Q All right. So, in other words, she ran it by you for
17 your approval before sending it out.

18 A Yes.

19 Q Did you take any note in looking through that ques-
20 tionnaire that there weren't places for people to note that
21 they had more than one television?

22 A No.

23 Q Did you take note of the fact that there wasn't any
24 place on the questionnaire to note whether they were having
25 any problems with their radios?

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1 A No.

2 Q Do you have any explanation as to why the station,
3 KOKS, did not employ Mr. Lampe to help the station in its
4 efforts to comply with the FCC's blanketing interference rule?

5 MR. DUNNE: Objection, Your Honor.

6 JUDGE STIRMER: Time.

7 MR. DUNNE: Yes, we need the time frame here.

8 JUDGE STIRMER: He was employed at one time.

9 MR. SHOOK: Understood, Your -- okay, prior to --

10 JUDGE STIRMER: So reframe your question in refer-
11 ence --

12 MR. SHOOK: Okay.

13 BY MR. SHOOK:

14 Q The time period I'm interested in is prior to 1991.
15 Why did the station not use Mr. Lampe to assist it in its
16 efforts to restore reception to complainants of blanketing
17 interference?

18 A There was no finances.

19 Q Now, during calendar year 1990, can you give me a
20 general description of the physical assets that radio station
21 KOKS had?

22 MR. DUNNE: Objection, Your Honor. I think that's a
23 little bit broad for this witness. Can we make it a little
24 bit more specific?

25 MR. SHOOK: All right -- we can make it the first of

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1 the year of 1990, limited to a day.

2 JUDGE STIRMER: Do you understand the question?

3 WITNESS: (No audible response.)

4 JUDGE STIRMER: All right, as of January, 1990, what
5 were the physical assets of this station?

6 WITNESS: None.

7 BY MR. SHOOK:

8 Q Now, the station owned real estate, did it not?

9 JUDGE STIRMER: What do you mean "none"? You mean you
10 didn't have any assets at that time? What kind of an answer
11 is that?

12 BY MR. SHOOK:

13 Q Property --

14 A Yes.

15 Q Did the station have any property as of January, 1990?

16 A Yes.

17 Q What property did the station have?

18 A It, it had where the transmitter is.

19 Q That parcel of land that includes the transmitter, the
20 power --

21 A The 7 1/2 acres, yes.

22 Q -- and the house in which you, and your wife, and son
23 live.

24 A That's correct.

25 Q All right, and did the station have a studio?

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- 1 A No.
- 2 Q The station rented studio space?
- 3 A Yes.
- 4 Q All right, and with respect to the land, and the tower,
5 and the house, was there a mortgage on that property?
- 6 A Yes.
- 7 Q And what was the amount of that mortgage?
- 8 A \$95,000.
- 9 Q All right, do you know what the value of the property
10 was?
- 11 A Approximately the same.
- 12 Q When you purchased that property back in 1985, what did
13 you purchase -- what was the purchase price of the property?
- 14 A \$150,000.
- 15 Q And that was in 1985?
- 16 A Yes.
- 17 Q And are you telling us that as of January 1, 1990, the
18 value of that property had dropped to 95,000?
- 19 A To 95,000?
- 20 Q Well, sir, if I understood your answer correctly, you
21 have a \$95,000 mortgage --
- 22 A Yes.
- 23 Q -- on the property as of January 1, 1990, and the value
24 of the property -- in other words, if you had to sell it that
25 day, it was \$95,000, is that what you're saying?

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1 A Yes.

2 Q So, in other words, the value of the real estate
3 dropped from \$150,000 to \$95,000 between 1985 and 1990?

4 A Yes.

5 Q All right. Do you have anything in writing that would
6 verify that?

7 A Only what the banker told me.

8 Q Do your tax records reflect that the value of the
9 property was \$95,000?

10 A As a non-profit organization, it has no tax.

11 Q In other words, when the property was transferred from
12 you and your wife to Calvary back in 1988, what happened to
13 the tax situation?

14 A It became non-exempt [sic].

15 Q All right --

16 A Well, or exempt.

17 Q -- so you don't have to pay any real estate taxes?

18 A No, sir.

19 MR. SHOOK: Your Honor, I, I find the answer with
20 respect to the valuation of the property inherently unbeliev-
21 able and I would request that documents be produced by the, by
22 the station in order to, you know, justify a response that
23 suggests that the value of the real property dropped from
24 \$150,000 in 1985 to in the vicinity of \$95,000 in 1990,
25 because the suggestion, of course, is that there is no equity

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1 in the property and, therefore, nothing upon which the station
2 could rely for assets, and I, I find that inherently unbeliev-
3 able.

4 JUDGE STIRMER: What kinds of records do you think they
5 would have?

6 MR. DUNNE: Your Honor, I would object to it on rele-
7 vance. I mean, the witness has testified that there was not
8 enough funds --

9 JUDGE STIRMER: Well, I, I have great difficulty with
10 this witnesses' testimony, to be quite candid with you,
11 Mr. Dunne. I don't know what kind of records they can pro-
12 duce. Did you try to sell your house, or the house --

13 WITNESS: From '85 to '90, the real estate market went
14 "teflunk."

15 JUDGE STIRMER: And that's why your value dropped?

16 WITNESS: That's to -- what the banker said.

17 JUDGE STIRMER: Did the fact that the towers erected
18 right in your backyard depreciate the value of your property?

19 WITNESS: It wasn't talked about.

20 JUDGE STIRMER: But you've never put your, your, your
21 property, or the, the property owned by Calvary, on the market
22 to determine --

23 WITNESS: No, sir.

24 JUDGE STIRMER: -- the market value.

25 WITNESS: No, sir.

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1 JUDGE STIRMER: And this value that you attribute to
2 it, namely 95,000, is something that, that you believe it's
3 worth --

4 WITNESS: Your Honor --

5 JUDGE STIRMER: -- based on some discussions you've had
6 with a banker?

7 WITNESS: He told me that due to the real estate
8 market, that he would be -- that he couldn't get his money
9 back that was owed against it.

10 JUDGE STIRMER: All right.

11 BY MR. SHOOK:

12 Q Perhaps there's another way of dealing with this. When
13 you were speaking with your banker, did you attempt to borrow
14 any money against the equity of the property?

15 A No, sir.

16 Q Have you ever attempted to borrow money against the
17 equity of the property?

18 A No, sir.

19 MR. DUNNE: Your Honor, may we go off the record for a
20 moment, please, out of the presence of the witness? I think I
21 can short-circuit some of these questions.

22 MR. SHOOK: Your Honor, I think I'm finished with that
23 line of questioning.

24 JUDGE STIRMER: All right. All right, let's move
25 along.

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1 BY MR. SHOOK:

2 Q All right, Mr. Stewart, you recall that Mr. Lampe was
3 employed to help the station restore reception on or about
4 January or February of 1991, do you not?

5 A Yes.

6 Q Now, were you aware either on or before January 1,
7 1991, that Mr. Lampe had been to a number of homes of the
8 complainants of blanketing interference prior to January 1,
9 1991?

10 A No.

11 Q Mr. Stewart, were you aware that blanketing complaints
12 had been made to the FCC, and that the FCC in turn had for-
13 warded those blanketing complaints to the station?

14 A Yes.

15 Q And when those complaints came to the station, did you
16 read them?

17 A Yes.

18 Q Does the name Leatha Piper mean anything to you?

19 A Only in name only. No, sir. Well --

20 Q All right, you don't recognize her?

21 A Yes, yes. Yes.

22 Q You recognize her name --

23 A Yes.

24 Q -- as one of the complainants?

25 A Yes.

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1 Q All right. Now --

2 MR. DUNNE: Open up the file --

3 MR. SHOOK: Okay.

4 MR. DUNNE: -- and you can refer to page 6 of

5 Exhibit No. 29.

6 WITNESS: Yes, sir. Yes.

7 MR. DUNNE: I'm placing before the witness page 6 of

8 Mass Media Bureau Exhibit No. 29. Refer to right there, now.

9 (Pause.)

10 JUDGE STIRMER: Is there a question?

11 MR. SHOOK: Not yet, Your Honor, he's reading through

12 the document.

13 (Pause.)

14 JUDGE STIRMER: Counsel, he doesn't need to read

15 through the whole document, does he?

16 MR. SHOOK: No.

17 BY MR. SHOOK:

18 Q Now, Mr. Stewart, did you see on page 6 of Mass Media

19 Exhibit 29 the references to Charley's TV and Charley Lampe's

20 trips to Leatha Piper's house?

21 A Yes, I see that.

22 Q Did you read this at the time the complaint came to the

23 station?

24 A No.

25 Q You did not?

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1 A No.

2 Q I would direct your attention to the last paragraph.

3 Do you see the first sentence there?

4 A Yeah, "I called."

5 Q "I called Mr. Stewart today and I informed him of the

6 repair bill." Do you recall any such conversation between

7 yourself and Leatha Piper?

8 A No. No.

9 Q Do you look -- do you see the next sentence? "His

10 reply, 'We have no money so there is nothing I can do about

11 it.'" Do you see that?

12 A Yes.

13 Q Do you recall making that statement?

14 A No.

15 Q Do you deny having made that statement?

16 A No.

17 Q It's possible you made it.

18 A Yes.

19 Q You just don't remember.

20 A That's -- yes.

21 Q Do you see the next sentence?

22 A Yes.

23 Q "He told me they were having an auction right now, so

24 we can pay the deejays." Do you see that?

25 A Yes.

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1 Q Do you recall making that, making that representation
2 to Leatha Piper?

3 A No.

4 Q Do you deny making that representation?

5 A No.

6 Q You just don't remember it.

7 A I don't remember.

8 Q Do you see the last sentence? Referencing an auction
9 to pay for new septic tank lines.

10 A Yes, I see. Yes.

11 Q Do you recall having a need for new septic tank lines?

12 A Yes.

13 Q In the summer of 1989?

14 A Yes.

15 Q Does the name Dairel Denton mean anything to you?

16 A Yes.

17 Q And how is it that you're familiar with the name of
18 Dairel Denton?

19 A Through Mrs. Stewart, the secretary.

20 Q And how is that you're familiar through Mrs. Stewart?

21 A That's -- that she talked about receiving a note from
22 the deejay pertaining to Mr. Denton.

23 Q Do you recall ever having met Mr. Denton?

24 A No, sir.

25 Q Do you recall ever having any conversations with

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1 Mr. Denton?

2 A No.

3 Q Would you deny ever having had any conversations with

4 Mr. Denton?

5 A Yes.

6 Q Okay. Now, Mr. Stewart, with respect to paragraph --
7 well, what used to be paragraph 12 of your testimony. It's on
8 page 8. Now, with respect to the 160 filters that were pur-
9 chased by the station, it was your understanding, was it not,
10 that those filters were for the purpose of restoring tele-
11 vision reception, right?

12 A Yes.

13 Q And they had nothing to do with radio reception, right?

14 A Yes.

15 Q And what was the reason that the station purchased 160
16 filters?

17 A They had to be paid for in advance, and that was all
18 the money we had.

19 Q Now, with respect to paragraph 13 of your testimony
20 that appears on page 9 -- you see the last sentence of that
21 paragraph?

22 A Yes.

23 Q All right. Now, what specifically are you referring
24 to, or how did you find out that you were wrong about mobile,
25 mobile receivers?

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1 A Mrs. Stewart said that she'd been installing filters on
2 mobile filters.

3 Q You mean she had been installing filters on portable
4 television sets?

5 A Yes.

6 Q And that's what alerted you to the possibility that you
7 may be wrong about your obligations for mobile receivers?

8 A This was when we came to the conclusion that they were
9 included in it.

10 Q All right, and I'm just trying to get a handle on when
11 you came to that discovery.

12 A At this time.

13 Q All right, well, what, what time is "this time"?

14 A That when she said that she'd been putting filters on
15 mobile sets, also.

16 Q Right. What I'm not certain of from looking at this
17 testimony was when this conversation took place; when was it
18 that Mrs. Stewart let you know that she had been putting
19 portable -- or had been -- been putting filters on portable
20 television sets?

21 A I don't remember. It was just in general conversation.

22 Q All right, was it approximately during the time that
23 Mr. Lampe, and Mrs. Stewart, and yourself were going to the
24 homes of the 105 complainants to install filters, or was it
25 sometime after that?

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- 1 A It was at that time. Yes. Yes, it was at that time.
- 2 Q All right. So, in other words, in February of 1991.
- 3 A Yes.
- 4 Q Now, as a consequence of learning that, in other words,
- 5 that you should be putting filters on portable television
- 6 sets, did the station make any orders of additional filters
- 7 for the purpose of having those filters available to install
- 8 on portable television sets?
- 9 A No, sir.
- 10 Q So 160 filters was what the station bought and that
- 11 was, that was the end of that?
- 12 A That was all the money we had at that time.
- 13 Q Right, well, how about subsequent to that time? Have
- 14 any additional filters been bought, or is it --
- 15 A Yes.
- 16 Q Or are you drawing down --
- 17 A Yes.
- 18 Q -- the stock from the 160?
- 19 A Yes.
- 20 Q Okay, what additional filters have been bought?
- 21 A One hundred.
- 22 Q So in --
- 23 A One hundred filters.
- 24 Q Excuse me?
- 25 A One hundred additional filters.

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1 Q All right, so now the station has purchased 260 total?

2 A Yes.

3 Q All right, and you still have a stock of filters at the
4 station?

5 A Less than 50.

6 Q Have any additional home visits been made other than
7 the 105 home visits that are referenced here?

8 A No, sir.

9 Q So in -- the last home visits were made in February of
10 1991.

11 A Yes, sir.

12 MR. SHOOK: Your Honor, I'm very close to the end.

13 JUDGE STIRMER: Very well.

14 BY MR. SHOOK:

15 Q I, I know I asked this question once relative to a
16 specific individual and I'm going to make it generic now:
17 were you ever in the home of a complainant and have the KOKS
18 transmitter turned off so that you could see what reception
19 looked like with KOKS' transmitter off?

20 A No, sir.

21 Q When you were in the home of anyone for purposes of
22 dealing with the blanketing interference complaint, did you
23 ever ask that individual what his or her television reception
24 was like before KOKS came on the air?

25 A No, sir.

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1 Q Did you ever ask that individual what his or her
2 reception was like when KOKS went off the air subsequent to
3 the time KOKS started broadcasting?

4 A No, sir.

5 Q Now, Mr. Stewart, with respect to paragraph 20 of your
6 testimony, there's a sentence that's about two-thirds of the
7 way down in the paragraph on page 12 that begins "I don't
8 remember ever refusing --" et cetera. Do you see that sen-
9 tence?

10 A That's on 20?

11 Q Yes, sir. It's on paragraph 20, page 12.

12 A Okay.

13 Q Okay, you see that statement?

14 A Yes, sir.

15 Q All right. Are you referring to one television set per
16 household there?

17 A Yes, sir, I am.

18 MR. SHOOK: Your Honor, I have no further questions.

19 JUDGE STIRMER: Very well. Redirect, Mr. --

20 MR. DUNNE: I have some redirect, Your Honor.

21 JUDGE STIRMER: All right.

22 REDIRECT EXAMINATION

23 BY MR. DUNNE:

24 Q You feeling all right, Mr. Stewart?

25 A Yes. That's -- yes.

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1 Q Okay, Mr. Stewart, prior to the time you went on the
2 air in October 1988, had you ever heard of blanketing inter-
3 ference?

4 A No, sir, I hadn't.

5 Q Had you any clue from anyone that blanketing inter-
6 ference might be a problem with respect to your station?

7 A No, sir.

8 Q You had no consultation with your consulting engineer,
9 for example, about blanketing interference?

10 A No, sir.

11 Q And he had never mentioned it in any conversation with
12 you.

13 A No, sir.

14 Q To the best of your recollection.

15 A No, sir.

16 Q Now, I think that I want to refer you back,
17 Mr. Stewart, if I can, to your testimony concerning the
18 sequence of when Mr. Baggett and Mr. Abernathy left. I
19 believe it was your testimony that Mr. Baggett left sometime
20 in November of 1988, is that correct?

21 A Yes.

22 Q And I believe it was also your testimony that
23 Mr. Abernathy left after Mr. Baggett?

24 A Yes.

25 Q And that there was roughly a month that separated the

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1 one between the other?

2 A (No audible response.)

3 Q Are you fairly clear about that sequence, Mr. Stewart?

4 A Mr. Abernathy never did say "I'm leaving." He --
5 Mr. Abernathy, just on a routine visit, he didn't show up.

6 Q And was Mr. Abernathy a full-time employee?

7 A No, sir.

8 Q He was a part-time employee.

9 A Yes.

10 Q And you just didn't notice him around after a while.

11 A We called him, but he, he failed to come.

12 Q And I believe in your testimony with respect to your
13 visit to the Smith home in, in November of 1988 -- and that's
14 in paragraph 7 of your testimony.

15 A Yes.

16 Q It says that you -- that when you were there you
17 discovered that Mr. Abernathy had been there to the house
18 before you, is that correct?

19 A (No audible response.)

20 Q Do you know what Mr. Abernathy did while he was at the
21 house there?

22 A No, sir, I don't.

23 Q Mr. Abernathy never told you.

24 A No, sir.

25 Q Mr. Abernathy didn't tell you that he was at the house.

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